

Presented to the Court by the foreman of the Grand Jury in open Court, in the presence of the Grand Jury and FILED in the U.S. DISTRICT COURT at Seattle, Washington.

Judge Leighton

JANUARY 26 2011

WILLIAM M. McCOOL, Clerk

By Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH M. DIBEE,
JOSEPHINE S. OVERAKER,
JUSTIN SOLONDZ, and
BRIANA WATERS,

Defendants.

NO. CR05-5828RBL

FIFTH SUPERSEDING
INDICTMENT

THE GRAND JURY CHARGES THAT:

COUNT 1
(Conspiracy)

Beginning in or about 1996, and continuing until in or about October 2001, at Olympia, in the Western District of Washington, and elsewhere, JOSEPH M. DIBEE, JOSEPHINE S. OVERAKER, Kevin Tubbs, JUSTIN SOLONDZ, BRIANA WATERS, William C. Rodgers, and others known and unknown to the grand jury did knowingly and willfully combine, conspire, and agree to commit offenses against the United States, to wit: arson, in violation of Title 18, United States Code, Section 844; using destructive devices during crimes of violence, in violation of Title 18, United States Code, Section 924(c); and making unregistered destructive devices, in violation of Title 26, United States Code, Section 5861(f).

Manner and Means of the Conspiracy

Beginning in or about 1996, members of the conspiracy agreed to commit, and in fact committed, arsons and other crimes in a supposed effort to advance the causes of environmental protection and animal rights. Members of the conspiracy selected a variety of buildings, vehicles, and other property as targets for their arsons and other crimes. Members of the conspiracy generally selected as targets buildings that either were owned by the United States Government or were used in interstate commerce or in activity affecting interstate commerce, and that members of the conspiracy believed were used for purposes that harmed either the environment or animals.

In most but not all cases, members of the conspiracy made and used destructive devices, as defined in Title 26, United States Code, Section 5845, to commit their arsons. Typically, these handmade devices incorporated kitchen timers, matches, sponges, and containers filled with fuel. Members of the conspiracy did not apply for permission to make and register these destructive devices in the National Firearms Registration and Transfer Record, as required by law. In most cases, members of the conspiracy placed these destructive devices at targets during the nighttime. Timers were used to create a time delay, so that fires ignited after members of the conspiracy had fled the scene.

In many cases, after committing arsons or other crimes, members of the conspiracy issued communiques claiming the crimes had been committed to protect the environment or animals. The communiques typically claimed that the crimes had been committed by groups named or described as the Earth Liberation Front (ELF) or the Animal Liberation Front (ALF). Members of the conspiracy intended that, by committing these crimes, they would influence and affect the conduct of government, commerce, private business, and the civilian population, and they intended to retaliate against the conduct of government, commerce, and private business.

In or about 2000, members of the conspiracy decided to attempt to increase the number of participants in the conspiracy. Beginning in approximately March 2000, members of the conspiracy held a series of secret meetings at locations in Oregon,

1 California, Arizona, and Washington at which they induced others to join the conspiracy.
2 At these meetings, members of the conspiracy agreed to focus their efforts on opposing
3 what they believed to be genetic engineering. As a result, they discussed targeting
4 government facilities and companies that they believed were used to further genetic
5 engineering. At these meetings, members of the conspiracy also discussed the use of
6 arson, and even demonstrated how to manufacture time-delayed destructive devices that
7 could be used to commit arsons.

8 In or about 2000, members of the conspiracy decided that, as part of their
9 campaign to stop genetic engineering, they would commit not only arson, but also other
10 crimes, including destroying what they considered to be genetically-engineered crops and
11 trees. To that end, members of the conspiracy decided to pull crops out of the ground and
12 "girdle" (remove rings of bark from) trees. Members of the conspiracy decided they
13 would perform these "field actions" before security became heightened. Thus, they
14 decided to resort to arson, which they believed would trigger heightened security, only
15 after these field actions. As a result, during 2000 and the spring of 2001, members of the
16 conspiracy performed several field actions in Washington and Oregon. Then, on May 21,
17 2001, members of the conspiracy set fire to two facilities they believed were used in
18 genetic engineering of poplar trees, namely Jefferson Poplar Farm in Clatskanie, Oregon,
19 and the Center for Urban Horticulture at the University of Washington in Seattle,
20 Washington.

21 *Overt Acts*

22 In furtherance of this conspiracy, and to accomplish one or more of the objects of
23 the conspiracy, OVERAKER, Tubbs, SOLONDZ, WATERS, Rodgers, and others known
24 and unknown to the grand jury committed or caused to be committed one or more of the
25 following overt acts:

26 1. On or about October 28, 1996, OVERAKER and another person known to
27 the grand jury used a destructive device in an attempt to burn down the Department of
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1 Agriculture, United States Forest Service, Detroit Ranger Station in Marion County,
2 Oregon.

3 2. On or about October 30, 1996, OVERAKER, Tubbs, and another person
4 known to the grand jury set fire to the Department of Agriculture, United States Forest
5 Service, Oakridge Ranger Station in Lane County, Oregon.

6 3. On or about July 21, 1997, DIBEE, Tubbs and other persons known to the
7 grand jury used destructive devices to set fire to Cavel West, Inc., 1607 SE Railroad,
8 Redmond, Oregon.

9 4. On or about November 30, 1997, OVERAKER, Tubbs, Rodgers and other
10 persons known to the grand jury released horses at, and used destructive devices to set
11 fire to, the Department of the Interior, Bureau of Land Management, Wild Horse and
12 Burro Facility in Burns, Oregon.

13 5. On or about June 21, 1998, OVERAKER, Tubbs, Rodgers, and another
14 person known to the grand jury set fire to the Department of Agriculture, National
15 Wildlife Research Facility located at 9701 Blomberg Street SW, Olympia, Washington.

16 6. On or about June 21, 1998, members of the conspiracy unknown to the
17 grand jury set fire to the Department of Agriculture, Animal Damage Control facility,
18 located at 720 O'Leary Way NW, Olympia, Washington.

19 7. On or about October 11, 1998, OVERAKER, Tubbs, Rodgers and other
20 persons known to the grand jury released horses at, and used destructive devices in an
21 attempt to burn down, the Department of the Interior, Bureau of Land Management, Wild
22 Horse Holding Facility in Rock Springs, Wyoming.

23 8. On or about October 19, 1998, Rodgers set fire to a number of buildings at
24 the Vail Ski Facility, in Eagle County, Colorado.

25 9. On or about December 22, 1998, Tubbs and other persons known to the
26 grand jury used destructive devices in an attempt to burn down U.S. Forest Industries,
27 2611 Whittle Avenue, Medford, Oregon.

1 10. On or about May 9, 1999, OVERAKER, Tubbs, and other persons known
2 to the grand jury used destructive devices to set fire to Childers Meat Company, 29476
3 Airport Road, Eugene, Oregon.

4 11. On or about December 25, 1999, OVERAKER and other persons known to
5 the grand jury used destructive devices to set fire to a building operated by Boise
6 Cascade, located at 450 North Pacific Avenue, Monmouth, Oregon.

7 12. In or about March 2000, members of the conspiracy and other persons
8 known to the grand jury held a secret meeting in Springfield, Oregon, at which they
9 discussed, among other things, how to build destructive devices.

10 13. In or about Spring or Summer 2000, members of the conspiracy and other
11 persons known to the grand jury held a secret meeting in Tucson, Arizona, at which they
12 discussed the selection of targets for arsons and other crimes.

13 14. In or about Spring or Summer 2000, members of the conspiracy and other
14 persons known to the grand jury held a secret meeting in Santa Cruz, California, at which,
15 among other things, one conspirator demonstrated how to build destructive devices.

16 15. On or about June 4, 2000, Rodgers and other persons known to the grand
17 jury broke into two greenhouses belonging to Pure Seed Testing in Canby, Oregon, and
18 turned over pots and plant beds containing specialized grass for golf courses.

19 16. On or about July 31, 2000, SOLONDZ and other persons known to the
20 grand jury destroyed five acres of canola being grown by Monsanto in Dusty,
21 Washington.

22 17. On or about September 6, 2000, Tubbs and other persons known to the
23 grand jury used destructive devices to set fire to the Eugene Police Department West
24 University Public Safety Station, 791 East 13th Avenue, Eugene, Oregon.

25 18. On or about January 2, 2001, Tubbs and other persons known to the grand
26 jury used destructive devices to set fire to Superior Lumber Company, 2695 Glendale
27 Valley Road, Glendale, Oregon.

1 19. In or about Winter 2001, members of the conspiracy and other persons
2 known to the grand jury held a secret meeting in Olympia, Washington.

3 20. On or about March 18, 2001, SOLONDZ and other persons known to the
4 grand jury girdled approximately 800 hybrid poplar trees at three separate Oregon State
5 University locations in and near Corvallis, Oregon.

6 21. On or about March 30, 2001, Tubbs, Rodgers and other persons known to
7 the grand jury used destructive devices to set fire to numerous vehicles at Joe Romania
8 Chevrolet Truck Center, 1425 Walnut Street, Eugene, Oregon.

9 22. On or about May 21, 2001, members of the conspiracy and other persons
10 known to the grand jury used destructive devices to set fire to Jefferson Poplar Farm
11 79114 Collins Road, Clatskanie, Oregon.

12 23. On or about May 21, 2001, SOLONDZ, WATERS, Rodgers, and two other
13 members of the conspiracy known to the grand jury used destructive devices to set fire to
14 the Center for Urban Horticulture at the University of Washington in Seattle, Washington.

15 24. In or about Summer 2001, members of the conspiracy and other persons
16 known to the grand jury held a secret meeting in Sisters, Oregon.

17 25. On or about October 15, 2001, DIBEE, SOLONDZ and other members of
18 the conspiracy used destructive devices to set fire to the Department of the Interior,
19 Bureau of Land Management, Litchfield Wild Horse and Burro Corrals in Susanville,
20 California.

21 All in violation of Title 18, United States Code, Section 371.
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COUNT 2
(Arson of a Building Belonging to the United States)

On or about June 21, 1998, at Olympia, within the Western District of Washington, JOSEPHINE S. OVERAKER and Kevin Tubbs maliciously damaged and destroyed, and aided and abetted in damaging and destroying, by means of fire and explosives, a building, the National Wildlife Research Facility, 9701 Blomberg Street SW, Olympia, Washington, which was then leased to the United States.

It is further alleged that this offense was committed during and in furtherance of the conspiracy charged in Count 1, above.

All in violation of Title 18, United States Code, Sections 844(f) and 2.

COUNT 3
(Making an Unregistered Firearm)

On or about May 20, 2001, at Olympia, within the Western District of Washington, JUSTIN SOLONDZ knowingly made, and aided and abetted in making, a firearm, to wit: a destructive device (an incendiary bomb).

It is further alleged that this offense was committed during and in furtherance of the conspiracy charged in Count 1, above.

All in violation of Title 26, United States Code, Sections 5822 and 5861(f) and Title 18, United States Code, Section 2.

COUNT 4
(Possessing an Unregistered Firearm)

On or about May 20, 2001, at Olympia, within the Western District of Washington, BRIANA WATERS knowingly possessed, and aided and abetted in possessing, a firearm, to wit: a destructive device (an incendiary bomb) not registered to her in the National Firearms Registration and Transfer Record.

It is further alleged that this offense was committed during and in furtherance of the conspiracy charged in Count 1, above.

All in violation of Title 26, United States Code, Sections 5841 and 5861(d) and Title 18, United States Code, Section 2.

COUNT 5
**(Arson of a Building in Interstate Commerce or
in Activity Affecting Interstate Commerce)**

On or about May 21, 2001, at Seattle, within the Western District of Washington, JUSTIN SOLONDZ and BRIANA WATERS maliciously damaged and destroyed by means of fire and explosive materials, and aided and abetted in maliciously damaging and destroying the Center for Urban Horticulture at the University of Washington, a building used in interstate commerce and in activity affecting interstate commerce.

It is further alleged that this offense was committed during and in furtherance of the conspiracy charged in Count 1, above.

All in violation of Title 18, United States Code, Sections 844(i) and 2.

COUNT 6

(Using a Destructive Device During a Crime of Violence)

On or about May 21, 2001, at Seattle, within the Western District of Washington, JUSTIN SOLONDZ and BRIANA WATERS knowingly used, and aided and abetted the use of, a firearm, to wit: a destructive device (an incendiary bomb), during and in relation to a crime of violence, to wit: the arson of the Center for Urban Horticulture at the University of Washington, a crime for which they may be prosecuted in a court of the United States.

It is further alleged that this offense was committed during and in furtherance of the conspiracy charged in Count 1, above.

All in violation of Title 18, United States Code, Sections 924(c)(1)(A) and (c)(1)(B)(ii) and 2.

COUNT 7

**(Arson of a Building Belonging to an Institution
Receiving Federal Financial Assistance)**

On or about May 21, 2001, at Seattle, within the Western District of Washington, JUSTIN SOLONDZ and BRIANA WATERS maliciously damaged and destroyed by means of fire and explosive materials, and aided and abetted in maliciously damaging and destroying, the Center for Urban Horticulture at the University of Washington, which was then owned and possessed by the University of Washington, an institution receiving federal financial assistance.

It is further alleged that this offense was committed during and in furtherance of the conspiracy charged in Count 1, above.

All in violation of Title 18, United States Code, Sections 844(f) and 2.

COUNT 8
(Possessing an Unregistered Firearm)

On or about October 13, 2001, at Seattle, within the Western District of Washington, JOSEPH M. DIBEE knowingly possessed, and aided and abetted in possessing, a firearm, to wit: a destructive device (an incendiary bomb) not registered to him in the National Firearms Registration and Transfer Record.

It is further alleged that this offense was committed during and in furtherance of the conspiracy charged in Count 1, above.

All in violation of Title 26, United States Code, Sections 5841 and 5861(d) and Title 18, United States Code, Section 2.

COUNT 9
(Possessing a Destructive Device in Furtherance of a Crime of Violence)

On or about October 13, 2001, at Seattle, within the Western District of Washington, JOSEPH M. DIBEE knowingly possessed, and aided and abetted the possession of, a firearm, to wit: a destructive device (an incendiary bomb), in furtherance of a crime of violence, to wit: the arson of the Department of the Interior, Bureau of Land Management, Litchfield Wild Horse and Burro Corrals, a crime for which he may be prosecuted in a court of the United States.

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1 It is further alleged that this offense was committed during and in furtherance of
2 the conspiracy charged in Count 1, above.

3 All in violation of Title 18, United States Code, Sections 924(c)(1)(A) and
4 (c)(1)(B)(ii) and 2.


5 A TRUE BILL:

6 DATED:

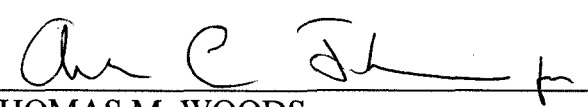
Jan 26 2011

7 Signature of Foreperson redacted
8 pursuant to the policy of the
9 Judicial Conference of the United States.

10 FOREPERSON

11 
12 JENNY A. DURKAN
13 United States Attorney

14 
15 ANDREW C. FRIEDMAN
16 Assistant United States Attorney

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18 THOMAS M. WOODS
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